

14

GENERAL PRINCIPLES



GENERAL PRINCIPLES

The following general principles apply to every employee and may form the basis for the standards contained in this part. Where a situation is not covered by the standards set forth in this part, employees shall apply the principles set forth in this section in determining whether their conduct is proper.

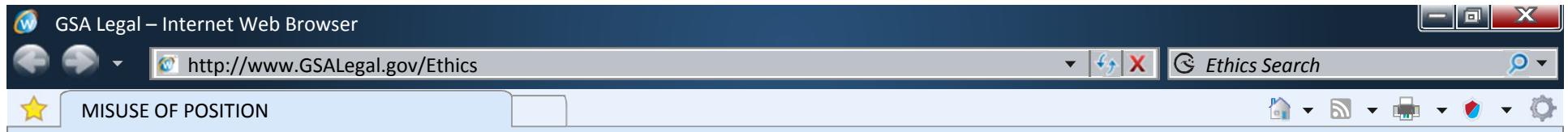
1. Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.
2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.
3. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
4. An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
5. Employees shall put forth honest effort in the performance of their duties.

6. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
7. Employees shall not use public office for private gain.
8. Employees shall act impartially and not give preferential treatment to any private organization or individual.
9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those—such as Federal, State, or local taxes—that are imposed by law.
13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

Standards of Ethical Conduct For Employees of the Executive Branch

Misuse of Position

Search



Misuse of Position

General Rule:

You may not use (or permit use of) your GSA title, position, or authority of office to:

- fundraise
- endorse a product, service, or enterprise
- imply the Government sanctions or endorses your personal activities or those of another
- induce or coerce another to provide any benefit to self or others

Use of official time:

- obligation to use government time to perform government work

Use of nonpublic information:

- Prohibited from financial transactions using nonpublic information
- May not allow improper use of nonpublic information to further own private interest or that of another

Use of Government property:

- Affirmative duty to protect and conserve Government property; and
- Prohibited from using such property, or allowing its use, for other than authorized purposes.



Misuse of Position

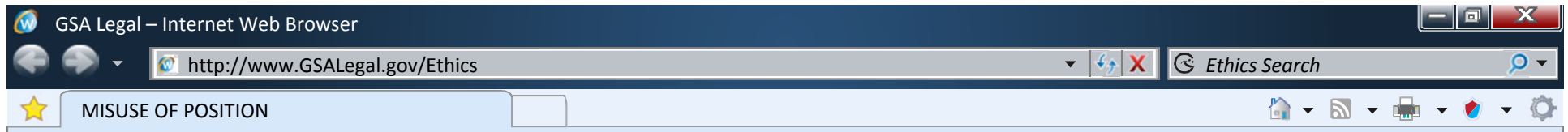
What about GSA's "Limited personal use" of government resources?

General rule: Limited personal use of government resources can be OK when:

- Not on duty time
- Minimal or no cost to GSA
- Does not interfere with performance of official duties
- Does not violate other rules

"Limited personal use" never permitted for...

1. Political Activities
2. Pornography
3. Chain Letters
4. Sales or Commercial Activities
5. Gambling
6. Fundraising Solicitations
7. Activities that reflect adversely on GSA



Misuse of Position

Exception To The Rule for Teaching, Speaking, Writing Activities:

may use official title or position only when used as one of a number of other biographical details.

Social Media Rules:

You are allowed to have personal websites, Facebook accounts, blogs and the like outside of work.

- Remember that when you use your social media tools personally, it shouldn't appear to others as though you are speaking for GSA.
- Remember, even in your personal capacity, your use of social media may still be subject to the Hatch Act.
- Employees may provide official title/position on the personal profile page of their social media sites, however, the context for this use must make it clear that the agency is not endorsing or sanctioning the employee's activities, content, or opinions.



MEMORANDUM FOR JACK ST. JOHN

SENIOR WHITE HOUSE ADVISOR
OFFICE OF THE CHIEF OF STAFF (AC)

FROM:

EUGENIA
EUGENIA D. ELLISON ELLISON
ASSOCIATE GENERAL COUNSEL / ALTERNATE
DESIGNATED AGENCY ETHICS OFFICIAL (LG)

Digitally signed by EUGENIA ELLISON
DN: cn=EUGENIA ELLISON, o=U.S. Government, ou=General
Services Administration, email=EUGENIA.ELLISON@GSA.GOV
c=US, email=EUGENIA.ELLISON@GSA.GOV
Date: 2017.02.24 10:21:49-0500

SUBJECT: Review of New Entrant Public Financial Disclosure Report
(OGE Form 278e)

The Ethics in Government Act of 1978, as amended, requires that you, due to your position, as Senior White House Advisor, file a Public Financial Disclosure Report. Your Public Financial Disclosure Report dated February 14, 2017, has been reviewed by me, the Alternate Designated Agency Ethics Official. Your report did not reveal any real or apparent conflicts of interest between your financial interests and official duties. However, please note the cautionary guidance below, specific to the content of your report.

Attached to this memorandum is your recusal notification for review and signature. Please sign and submit a copy to Mr. Horne, as well as the parties cc'd on the document.

Financial Conflicts of Interest

The financial conflict of interest law at 18 U.S.C. § 208 prohibits you from working on particular matters for the government if that matter would have a direct and predictable effect on your financial interests, including financial interests imputed to you. This law imputes to you the financial interests of a spouse, minor child, and any organization you serve as an officer, director, trustee, general partner, employee, or organizations in which you are negotiating for employment. This means that if a matter comes before you that would affect the financial interests of the companies whose stock you hold, or any of your other financial interests, you must notify your supervisor promptly and recuse yourself from participation in that matter until a determination is made on how to proceed. Such a determination should be made only after consultation with a Deputy Standards of Conduct Counselor or the Ethics Law Staff.

Outside Earned Income Limitations

As a covered noncareer employee you are subject to the outside earned income limitations and employment and affiliation restrictions. 5 C.F.R. 2636.300 et seq. *Outside earned income* and *compensation* both mean wages, salaries, honoraria, commissions, professional fees and any other form of compensation for services other than salary, benefits and allowances paid by the United States Government. Accordingly, you may not, in any calendar year, receive outside earned income which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule. 5 C.F.R. § 2636.304. The amount for 2017 is \$27,765.00.

Additionally, as a covered noncareer employee, you are prohibited from receiving compensation for practicing a profession which involves a fiduciary relationship; or affiliating with or being employed to perform professional duties by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship; or permit your name to be used by any firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship. 5 C.F.R. § 2636.305. You are also prohibited from receiving compensation for serving as an officer or member of the board of any association, corporation, or other entity. 5 C.F.R. § 2636.306. Please note that this regulation does not prohibit uncompensated service with any entity as an officer or member of the board.

Lastly, you are reminded that should you choose to engage in teaching for compensation, you must be authorized in advance by a designated agency ethics official before engaging in this activity. 5 C.F.R. § 2636.307.

The Ethics Pledge Limitation and Covered Relationships Limitation

In addition to the restrictions discussed above, as an appointee you are bound by the requirements and restrictions in the Ethics Pledge you have signed, as required by section 1 of this Executive Order 13770 entitled "Ethics Commitments by Executive Branch Appointees," dated January 20, 2017. Of particular note is the restriction under paragraph 6 of the Ethics Pledge which precludes you from participating personally and substantially in any particular matter involving specific parties that is directly and substantially related to your former employer and clients (including regulations and contracts) for a period of two years from the date of your appointment. The Ethics Pledge defines a former employer as any person for whom you served as an employee, officer, director, trustee or general partner during the two years prior to your appointment. The Ethics Pledge defines a former client as any person for whom you served personally as agent, attorney, or consultant within the two years prior to the date of your appointment. A list of your former employers and clients is contained in your recusal, found at Attachment 1. Pursuant to the Ethics Pledge, you must not participate personally and substantially in any particular matter that is directly and substantially related to your former employers or former clients. Your recusal under the Ethics Pledge will remain in effect for two years from the date of your appointment.

Actions that may constitute personal and substantial participation include assigning covered matters on an ad hoc basis. Participating in a decision concerning who should work on a matter, how a matter should be handled, or whether a matter should be acted upon, are all forms of personal and substantial participation in the matter. Involvement in preliminary discussions, in interim evaluations, in review or approval at intermediate levels, or in supervision of subordinates working on a matter also amount to personal and substantial participation. In addition, a discussion with affected persons about the merits or progress of a matter is considered personal and substantial participation.

Representational Restrictions

As a federal employee, you are also subject to the limitations under 18 U.S.C. 203 and 205. Section 203, precludes you from receiving or agreeing to receive, or solicit compensation for representational services rendered by you or another, during your Government employment, on matters in which the United States is a party or has a direct and substantial interest. Section 205 precludes you from personally representing another person, with or without compensation, before any department, agency, officer or court on matters in which the United States is a party or has a direct and substantial interest. Please note, however, that these statutes do not limit your ability to represent another person before Congress, and state or local governments.

Impartiality in the Performance of Your Official Duties

Lastly, I note that you terminated employment with St. John & St. John, LLC in January of 2017. Under the Impartiality in the Performance of Official Duties regulation 5 C.F.R. § 2635.502(a), an employee should not work on matters which can affect someone with whom an employee has a covered relationship, such as a former employer, within the last year. Therefore, this restriction precludes you from working on any matters that may affect St. John & St. John LLC until January 20, 2018; unless, an authorization is granted in accordance with 5 C.F.R. § 2635.502(d). Please note that the Ethics Pledge prohibits your participation on matters that could affect your former employer for two years. Therefore, this prohibition is effective until January 20, 2019. Should a matter come before you that may affect St. John & St. John LLC, you must notify your supervisor promptly and refrain from any participation until a determination is made on how to proceed, after consultation with a Deputy Standards of Conduct Counselor or the Ethics Law Staff.

Misuse of Position

Use of Title, Position, or Authority

Although you do not have any outside employment or activities listed, please note that while engaging in your outside employment or outside activities in your personal capacity, you may not use or permit the use of your official title and position with GSA to identify you in connection with the activity. (5 C.F.R. § 2635.807(b)). Further, you may

not use your public office for your own private gain, for the endorsement of any product, service or enterprise, for the private gain of friends, relatives, or persons of whom you are affiliated with in a nongovernmental capacity, including nonprofit organizations, or persons with whom you have or seek employment or business relations. 5 C.F.R. § 2635.702. You may not use or permit the use of your position or title in a matter that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise to yourself, friends, relatives, or persons of whom you are affiliated with in a nongovernmental capacity. 5 C.F.R. § 2635.702. You may not, use or permit the use of your Government position or title or any authority associated with your public office in a matter that could reasonably be construed to imply that GSA or the Government sanctions or endorses your personal activities. See 5 C.F.R. § 2635.702(b). However, if you engage in teaching, speaking, or writing as outside employment or as an outside activity you may include or permit the inclusion of your title or position as one of several biographical duties when such information is given to identify you in connection with your teaching, speaking and writing, provided that your title or position is not given more prominence than other significant biographical details. 5 C.F.R. § 2635.807(b).

Use of Government Equipment

Federal employees have an obligation to use Government equipment and official time in an honest effort to perform "official duties." You must use your own equipment and time for your outside employment and outside activities. You may not use any government equipment, such as your computer, telephone, or e-mail, for conducting outside employment activities, unless otherwise allowed by GSA Order ADM 7800.11A, *Personal Use of Agency Office Equipment*. You must take annual leave to conduct this activity if the activity takes place during your duty hours, since you cannot use official time to engage in outside employment activities. You do not have to take annual leave if this activity falls outside of your official hours of work.

Periodic Transaction Reports

Section 6 of the Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) requires Public Financial Disclosure Report filers to file a Periodic Transaction Report, similar to the Transaction part of the Public Financial Disclosure Report, within 30 days of receiving notification of a transaction, but no more than 45 days from the date of the actual transaction.

You, your spouse's and minor children's transactions of stock, bonds, and commodities futures which exceed \$1,000 must be reported on the periodic transaction reports. Transactions of real property, excepted investment funds (such as mutual funds), treasuries, life insurance and annuities, cash accounts, and assets contained in a retirement system maintained by the United States, such as the Thrift Savings Plan (TSP), which exceed \$1,000 are not required to be reported on a Periodic Transaction Report. However, please note that although these transactions are not required to be reported on a Periodic Transaction Report, many of them are required to be reported on your annual and termination Public Financial Disclosure Report. Therefore, you may

choose to report excepted investment fund transactions and other exempted reportable transactions on a Periodic Transaction Report.

All filers are required to use Integrity.gov for reporting periodic transaction. Please note that you are not required to submit a negative report if you have no reportable transactions.

As an Integrity electronic filer, a copy of your report can be obtained anytime simply by logging into Integrity.gov.

If you have any questions, please contact Shana Vinson at (202) 501-9103 or the Ethics Law Staff at (202) 501-0765.

RESTRICTED DISTRIBUTION – FOR ADDRESSEE'S EYES ONLY

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



Preventing Conflicts of Interest
in the Executive Branch

☒ Resources ☐ all OGE

Search

[Site Index](#) | [Search Tips](#) | [Advanced Search](#)

TOPICS

ABOUT

LAWS & REGULATIONS

FINANCIAL DISCLOSURE

OGE ADVISORIES

PROGRAM MANAGEMENT

EDUCATION

5 C.F.R. Part 2635: Standards of ethical conduct for employees of the executive branch

[Text of Regulation](#)

In 1989, the President's Commission on Federal Ethics Law Reform recommended that individual agency standards of conduct be replaced with a single regulation applicable to all employees of the executive branch. Acting upon that recommendation, President Bush signed [Executive Order 12674](#) on April 12, 1989. That Executive Order (as modified by [Executive Order 12731](#)) set out fourteen basic principles of ethical conduct for executive branch personnel and directed OGE to establish a single, comprehensive, and clear set of executive branch standards of ethical conduct. OGE published the [Standards of Ethical Conduct for Employees of the Executive Branch](#) on August 7, 1992. The regulation became effective on February 3, 1993, and was codified in 5 C.F.R. Part 2635. Part 2635 has been amended several times. Review the [rulemaking history](#).

Note: Some agencies have published [agency supplemental regulations](#) that modify or supplement 5 C.F.R. part 2635.

Brief Summary of Employee Standards of Conduct

Subpart A - General Provisions

Subpart A establishes the framework for the rest of the regulation. It includes definitions, provides authority for supplementation of the regulation when necessary by individual agencies, and encourages employees to seek advice from agency ethics officials. It also:

- ◆ Restates the 14 principles of ethical conduct and instructs employees to apply them when considering situations not specifically addressed by the regulation; and
- ◆ For situations that involve appearances of conflicts, provides that the circumstances be judged from the perspective of a reasonable person with knowledge of the relevant facts.

Subpart B - Gifts from Outside Sources

Subpart B prohibits employees from soliciting or accepting gifts from prohibited sources or gifts given because of their official position. The term "prohibited source" includes anyone seeking business with or official action by an employee's agency and anyone substantially affected by the performance of the employee's duties. For example, a company bidding for an agency contract or a person seeking an agency grant would be a prohibited source of gifts to employees of that agency.

The term "gift" is defined to include nearly anything of market value. However, it does not include items that clearly are not gifts, such as publicly available discounts and commercial loans and it does not include certain inconsequential items, such as coffee, donuts, greeting cards, and certificates.

There are several exceptions to the prohibitions against gifts from outside sources. For example, with some limitations, employees may accept:

- ◆ Unsolicited gifts with a market value of \$20 or less per occasion, aggregating no more than \$50 in a calendar year from any single source;
- ◆ Gifts motivated by a family relationship or personal friendship;
- ◆ Free attendance at certain widely-attended gatherings, such as conferences and receptions, when the cost of attendance is borne by the sponsor of the event; and
- ◆ Food, refreshments, and entertainment at certain meetings or events while on duty in a foreign country.

The subpart also contains guidance on returning or paying for gifts that cannot be accepted.

Subpart C - Gifts Between Employees

Subpart C prohibits employees from:

- ◆ Giving or soliciting for a gift to another employee who is an official superior; or
- ◆ Accepting a gift from a lower-paid employee, unless the two employees are personal friends who are not in a superior-subordinate relationship.

The following are among the exceptions to these prohibitions:

- ◆ On an occasional basis, employees may give and accept items aggregating \$10 or less per occasion, food and refreshments shared in the office, or personal hospitality at a residence. This exception can be used for birthdays and those holidays when gifts are traditionally exchanged.
- ◆ On infrequent occasions of personal significance, such as marriage, and on occasions that terminate the superior-subordinate relationship, such as retirement, employees may give and accept gifts appropriate to the occasion and they may make or solicit voluntary contributions of nominal value for group gifts.

Subpart D - Conflicting Financial Interests

Subpart D contains two provisions designed to deal with financial interests that conflict with employees' official duties.

The first provision, entitled "Disqualifying financial interests," prohibits an employee from participating in an official government capacity in a matter in which he has a financial interest or in which his spouse, minor child, employer, or any one of several other specified persons has a financial interest. For example, an agency purchasing agent could not place an agency order for computer software with a company owned by his wife. The provision includes alternatives to nonparticipation, which may involve selling or giving up the conflicting interest or obtaining a statutory waiver that will permit the employee to continue to perform specific official duties.

The second provision, entitled "Prohibited financial interests," contains authority by which agencies may prohibit employee from acquiring or retaining certain financial interests.

Employees required by Subpart D to sell financial interests may be eligible to defer the tax consequences of that divestiture.

Subpart E - Impartiality in Performing Official Duties

There may be circumstances other than those covered by Subpart D in which employees should not perform official duties in order to avoid an appearance of loss of impartiality. Subpart E contains two disqualification provisions addressing those appearance issues.

The first provision, entitled "Personal and business relationships," states that employees should obtain specific authorization before participating in certain Government matters where their impartiality is likely to be questioned. The matters specifically covered by this standard include those:

- ◆ Involving specific parties, such as contracts, grants, or investigations, that are likely to affect the financial interests of members of employees' households; or
- ◆ In which persons with whom employees have specific relationships are parties or represent parties. This would include, for example, matters involving recent employers, employers of spouses or minor children, or anyone with whom the employees have or seek a business or financial relationship.

There are procedures by which employees may be authorized to participate in such matters when it serves the employing agency's interests. The process set out in Subpart E should be used to address any matter in which an employee's impartiality is likely to be questioned.

The second provision, entitled "Extraordinary payments from former employers," restricts employees' participation in certain matters involving former employers. If a former employer gave an employee an "extraordinary payment" in excess of \$10,000 prior to entering Federal service, it bars the employee from participating for two years in matters in which that former employer is a party or represents a party. A \$25,000 payment voted on an ad hoc basis by a board of directors would be an "extraordinary payment." A routine severance payment made under an established employee benefit plan would not.

Subpart F - Seeking Other Employment

Subpart F prohibits employees from participating in their official capacities in particular matters that have a direct and predictable effect on the financial interests of persons with whom they are "seeking employment" or with whom they have an arrangement concerning future employment. Employees who are public financial disclosure report filers are subject to additional notification and recusal requirements when they negotiate for or have an agreement of future employment or compensation with a non-Federal entity.

The term "seeking employment" encompasses actual employment negotiations as well as more preliminary efforts to obtain employment, such as sending an unsolicited resume. It does not include merely requesting a job application.

An employee generally continues to be "seeking employment" until the employee or the prospective employer rejects the possibility of employment and all discussions end. A response on the part of an employee that defers discussions until the foreseeable future does not constitute rejection. An employee is no longer "seeking employment" with the recipient of an unsolicited resume after two months have passed with no response.

Subpart G - Misuse of Position

Subpart G contains four provisions designed to ensure that employee do not misuse their official positions. These include:

- ◆ A prohibition against employees using public office for their own private gain for the private gain of friends, relatives, or persons with whom they are affiliated in a non-Government capacity, or for the endorsement or any product, service, or enterprise;
- ◆ A prohibition against engaging in financial transactions using nonpublic information, or allowing the improper use of nonpublic information to further private interests;
- ◆ An affirmative duty to protect and conserve Government property and to use Government property only for authorized purposes; and
- ◆ A prohibition against using official time other than in an honest effort to perform official duties and a prohibition against encouraging or requesting a subordinate to use official time to perform unauthorized activities.

Subpart H - Outside Activities

Subpart H contains provisions governing employees' involvement in outside activities including outside employment. These provisions are in addition to the provisions set out in other parts of the regulation. The provisions in Subpart H include:

- ◆ Synopses of statutes and a constitutional provision that may limit certain outside activities;
- ◆ A prohibition against engaging in outside activities that conflict with employees' official duties;
- ◆ Authority by which individual agencies may require employees to obtain approval before engaging in outside activities;
- ◆ An outside earned income ban applicable to certain Presidential appointees and certain noncareer employees;
- ◆ A prohibition against serving as an expert witness, other than on behalf of the United States, in certain proceedings in which the United States is a party or has a direct and substantial interest;
- ◆ A prohibition against receiving compensation for teaching, speaking, or writing related to their official duties;
- ◆ Limitations on fundraising in a personal capacity; and
- ◆ A requirement that employees satisfy their just financial obligations.

Subpart I - Related Statutory Authorities

Subpart I lists references to other statutes which relate to employee conduct.

U.S. Office of Government Ethics ★ 1201 New York Avenue, N.W. Suite 500 ★ Washington, DC 20005

[Open Government](#) | [International Resources](#) | [Media Resources](#) | [Forms Library](#) | [Contact Us](#)

 [Twitter](#)  [RSS](#)  [YouTube](#)  [Google +](#)

[Website Policies](#) | [Privacy Policy](#) | [FOIA & Privacy Act](#) | [No FEAR Act Data](#) | [Performance and Budget](#) | [Site Index](#)

